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*NOT ADMITTED IN D.C.

February 21, 1997

Lawrence Noble, Esquire
General Counsel
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3774

Dear Mr. Noble,

Please find enclosed a Statement of Designation of Counsel designating Alan P. Dye and myself as counsel for The National Right to Work Committee in connection with MUR 3774.

Also enclosed are the original and three copies of a Motion to Quash the Subpoena to Produce Documents/Order to Submit Written Answers which was served on The National Right to Work Committee on February 14, 1997.

Sincerely,



Frank M. Northam

FMN/jc

Enclosures

cc: Richard J. Clair, Esquire/Enclosures

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FEB 21 1997
U.S. DEPT. OF JUSTICE
FEDERAL ELECTION COMMISSION

STATEMENT OF DESIGNATION OF COUNSEL
Federal Election Commission

FEB 21 3 38 PM '97

MUR 3774

NAME OF COUNSEL: Alan P. Dye and Frank M. Northam

FIRM: Webster, Chamberlain & Bean

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The above-named individuals are hereby designated as our counsel and are authorized to receive any notifications and other communications from the Commission and to act on our behalf before the Commission.

The National Right to Work Committee

2/21/97
Date

By: Paul E. Larson, Pres.
Signature & Title

SUBPOENAED WITNESS'S NAME: The National Right to Work Committee

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Springfield, VA 22160

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Unknown Respondent)
)
& Witness Subpoena)

MUR 3774

MOTION TO QUASH

The National Right to Work Committee (NRTWC),¹ by counsel, pursuant to FEC Regs. §111.15, hereby moves that the Commission quash the Subpoena to Produce Documents/Order to Submit Written Answers served upon NRTWC in the above-referenced MUR, which was received by NRTWC on February 14, 1997. The reasons for this motion are set forth below.

1. The envelope in which the Subpoena/Order was mailed was damaged or opened in transit, and the two checks referred to in the Subpoena/Order were not in the envelope when it was received at NRTWC's office. Attached to this motion is a copy of the back of the envelope showing damage and bearing the notation by the local post office, "Received in bad condition at 22151." NRTWC cannot respond with respect to said checks until they are provided to NRTWC.

2. NRTWC is a citizens coalition which opposes compulsory unionism. Such advocacy with respect to public policy issues is a protected form of speech and association protected by the First Amendment to the Constitution of the United States. *See, Buckley v. Valeo*, 424 U.S. 1, 14-23 (1976). The Subpoena/Order threaten and chill the exercise of First Amendment rights by NRTWC and its supporters.

3. The Subpoena/Order is an unauthorized fishing expedition, seeking documents and information on NRTWC's activities, rather than the activities of others, such that a reasonable person would conclude that the Commission is exceeding and misusing its investigative powers in an attempt to secure NRTWC's admission to one or more violations of the federal election laws, or documents and information with which to prove a violation by NRTWC. However, the Commission is not authorized to investigate suspected violations by NRTWC unless a complaint is first filed against NRTWC pursuant to 2 U.S.C. § 437g. *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 387-88 (D.C. Cir. 1981), *cert. denied* 454 U.S. 897. (Mere "official curiosity" does not suffice as a basis for Commission investigations. The Commission needs a signed, sworn, notarized complaint to commence an investigation.) Nor has NRTWC been informed of any "reason to believe" vote pursuant to 2 U.S.C. § 437g(a)(2) by which the Commission might be able to commence an investigation of NRTWC.

¹ NRTWC notes that it was misnamed in the Subpoena/Order as "National Right to Work Committee, Inc." NRTWC's correct legal name is "The National Right to Work Committee".

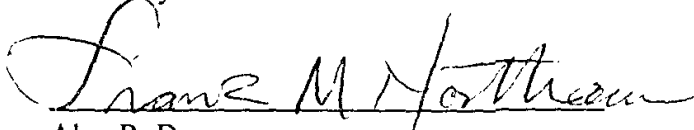
4. The language of the Subpoena/Order is constitutionally vague and overbroad. For example, interrogatory 3 requests information concerning activities "relating to" federal elections, including but not limited to communications or activities "containing the names(s) of any 1992 federal candidates." The phrase "relating to" is just as vague and overbroad as other phrases so declared by the U.S. Supreme Court. "Relative to," "for the purpose of influencing," and "in connection with" have all been given an "express advocacy" limiting construction by the Supreme Court to avoid constitutional vagueness and overbreadth. *Buckley v. Valeo*, 424 U.S. at 42-43 & 80; *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 249 (1986). Furthermore, the simple fact that a communication "contains the name of federal candidates" as used in interrogatory 3 and document request 3, is wholly insufficient to bring it within the Commission's jurisdiction. To come within the Commission's jurisdiction, not only must a communication "clearly identify" a federal candidate, but it must also "expressly advocate" the candidate's election or defeat. *Id.*

5. NRTWC and its supporters have a constitutional right to associate in private for the promotion of its cause. *Buckley*, 424 U.S. at 64-66. The Subpoena/Order as a whole, and particularly document request 4, threaten that First Amendment right without a compelling governmental interest. "[I]f the FEC lacks jurisdiction . . . , then no compelling interest for the subpoenaed information can possibly exist." *Machinists*, at 389.

For the foregoing reasons, NRTWC respectfully moves that the Commission quash the Subpoena/Order issued to NRTWC in the above-referenced MUR.

Respectfully submitted,

The National Right to Work Committee,
by counsel

A handwritten signature in dark ink, appearing to read "Alan P. Dye", is written over a horizontal line.

Alan P. Dye
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Received in bad condition at 29157